IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04/10/2002

CORAM

THE HONOURABLE MR. JUSTICE P.K. MISRA

W.P.NO. 13033 OF 2001
and
WPMP.NOs.27469 & 27470 OF 2002

G. Kaliyaperumal
Asst. Executive Engineer,
TWAD Board, P.F.Sub Division III,
Thanjavur. .. Petitioner

-Vs-

1. The Tamil Nadu Water Supply &
Drainage Board,
Rep. by its Managing Director,
31, Kamarajar Salai,
Chepauk, Chennai 600 005.

2. The Managing Director,
Tamil Nadu Water Supply and
Drainage Board,
31, Kamarajar Salai,
Chepauk, Chenai 600 005. .. Respondents

Petition filed under Article 226 of the Constitution of India for the issuance of Writ of Certiorarified Mandamus as stated therein.

For Petitioner : Mr. S. Swaminathan

For Respondents : Ms. Sudhshana Sundar

:J U D G M E N T

The petitioner, an employee under the first respondent, has filed this writ petition to quash the order passed by the first respondent imposing certain punishment.

2. The petitioner had joined services under the first respondent in the year 1972 as Junior Engineer and was promoted from time to time. Ultimately certain charges were framed against the petitioner in 19 98. After enquiry, the Managing Director imposed the following punishment :-
“ . . . Considering the gravity of the charges and the

circumstances of the case, I award the punishment of reduction in his rank by one level and his pay shall be fixed in the minimum of the pay scale in the reduced rank for the proven charges. . . .”

3. The petitioner preferred appeal against the aforesaid order of punishment. The appeal was dealt with by the Appeal Sub Committee in its Resolution No.7 dated 26.2.2001 in the following manner :-

“ Resolved after careful consideration to recommend to Board to confirm the punishment of reduction in his rank by one level till his retirement and fix his pay in the minimum of pay scale in the reduced rank awarded to Thiru G. Kaliyaperumal, Assistant Executive Engineer in M.D.’s Proc.No.27690/Estt.(DP-I)/A2/98-21 dt. 13.12.1999.”

4. The aforesaid recommendation was placed before the Board and the Board by its resolution No.5.7, dated 12.3.2001 passed the following order :-

“ Resolved after careful consideration to accept the recommendation of the Appeal Sub Committee to confirm the punishment of reduction in his rank by one level till his retirement and fix his pay in the minimum of pay scale in the reduced rank awarded to Thiru G. Kaliyaperumal, Assistant Executive Engineer in M.D.’s Proc. No. 27690/Estt. (DP-I)/A2/98-21 dt. 13.12.1999.”

5. Several contentions have been raised by the learned counsel for the petitioner. One of the contentions raised is that the petitioner was not given opportunity of hearing before the Appeal Sub Committee. It appears that the initial order of punishment was reduction in rank by one level. However, the Appeal Sub Committee has recommended, which has been accepted by the Board, that there shall be reduction of rank by one level till his retirement. This appears to be enhancement of the punishment imposed by the first respondent. The appellate authority should not have considered the question of enhancement without giving further opportunity of hearing to the petitioner.

6. The second contention of the petitioner relates to the question of merit. When an appeal is preferred, it is to be considered in all aspects. In the present case, the memorandum of appeal had raised various aspects and it was expected that the appellate authority should deal with all the questions raised by passing a reasoned order. In the present case, it has been only recounted that the appeal has been carefully considered. This does not amount to giving reasons in support of the appellate order. When several contentions have been raised, particularly relating to source of acquisition of property, it would have been proper on the part of the Appeal Sub Committee to deal with the matter by giving proper reasons.

7. In view of the aforesaid reasons, the order passed by the appellate authority is quashed and the matter is required to be reconsidered by the appellate authority on merit. This may be done within a period of four

months from the date of communication of the order.

8. The writ petition is allowed accordingly and there will be no order as to costs. Consequently, WPMP.No.27469 & 27470 of 2002 are closed.

Index : Yes
Internet : Yes
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To

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Drainage Board,
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2. The Managing Director,
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